

Two Important Little Sentences

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“... you do have the right to ALPA representation prior to making any statements, and even prior to answering any questions. You should exercise that right.”

Recently, I bellyached to Captain Chris Beebe about a disturbingly common occurrence I have encountered in my conversations with pilots who find their actions scrutinized by the Company or the FAA. After listening patiently, Chris suggested that I write this article to get the word out to our pilot group.

If you've ever watched any police shows on television, then I'm sure you've seen the TV cops reading *Miranda* rights to their "collars." Therefore, I know you are familiar with the phrase, "You have the right to remain silent. Anything you say can and will be used against you in a court of law." Although your fourth amendment rights only apply in criminal situations, there is a lot of wisdom contained in those two little sentences.

No matter how careful you are out there on the line, you may find that you have inadvertently misinterpreted an ATC clearance or run afoul of some obscure company policy. You should then remember those two handy little *Miranda* sentences. If you suddenly find yourself, for whatever reason, in the cross hairs of the Company or the FAA, you should not be straining at the leash to confess your sins to any company or FAA official. Because, my friends, what you say at this point can and will be used against you by the Company and/or the FAA. There are only two exceptions at this stage of the game—the Company ASAP report (which must be filed within 24 hours of an incident) and the NASA report (which must be filed within 10 days of an incident).

Therefore, your first call, after complying with any legal or company requirements that may be applicable, should be to ALPA. Since you are not involved in a criminal situation, you do not have a fourth amendment right to remain silent forever. However, you do have the right to ALPA representation prior to making any statements, and even

prior to answering any questions. You should exercise that right. By contacting ALPA prior to making any statements, you will not only have the benefit of additional time to collect your thoughts and reflect on what happened, but you will also get some sage advice. At the very least, you will have a witness to whatever you end up saying. You can find your LEC representative's telephone number in the *US AIRWAVES* gray pages. Or, call our MEC Legal staff at 800-USAIR MEC.

If a company or FAA official wants to talk to you or requests a statement, do not refuse to speak with them. Instead, politely explain that you want ALPA representation prior to making any statements. As I said, this is your right. Most of the chief pilots know the drill and will leave you alone until you secure ALPA representation. Some may even tell you to contact ALPA before talking to them. However, they will be all too happy to listen attentively if you feel compelled to confess your sins. With the advent of the ASAP program, most pilot deviations will end up in the safety partnership program with the FAA, and will not go down the enforcement route. However, when initially dealing with the FAA, exercising your right to ALPA representation is a wise rule of thumb to follow.

Which brings me back to what I was complaining to Chris about. All too frequently, pilots involved in an incident ask me whether they could expect trouble from the Company or the FAA. Several minutes into the conversation, I learn that they have *already* disclosed all the gory details of their situation to the Company or the FAA, before speaking with me or anyone else from ALPA. What were those two little sentences from the *Miranda* warning?

